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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,013	10/26/2000	Hiroshi Yoshida	P107400-00016	2916

7590

09/26/2003

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EXAMINER

KOSLOW, CAROL M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/696,013

Applicant(s)

YOSHIDA ET AL.

Examiner

C. Melissa Koslow

Art Unit

1755

--Th MAILING DATE of this communication app ars on th cover sh et with th correspond nce address --

THE REPLY FILED 17 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 17 September 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the _____ application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

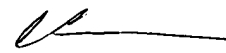
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 6-10 and 13-17.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


C. Melissa Koslow
Primary Examiner
Art Unit: 1755

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments are not convincing. With respect to the 35 USC 112 rejection, applicants argue one of ordinary skill in the art can determine the amount of dopant when given a temperature via interpolation from the graphs of figures 3a, 4a and 4b, but they have not explained how this is accomplished. Since there are no increments on the graphs, it is unclear how one of ordinary skill in the art can determine the exact amount of Fe, Co, Cr, Ni, V, Co and Fe or Fe and Mn should be used from the graphs. Also claims 7 and 14 teaches other dopants besides those of the graphs. The rejection is maintained. With respects to the arguments over the rejections of claims 6 and 8-10, the claims do not include the argued limitations of ZnO single crystalline or single crystal film. Applicants arguments with respect to claims 13 and 15-17 are untimely since the argument indicates applicants are using the phrase "single crystalline" to mean single crystal since they are now arguing Miyazaki et al teaches a polycrystalline film. This is the first time applicants have defined this term as such. The previous arguments and the specification never set forth what applicants meant by "single crystalline", which can be interpreted either as the Examiner interpreted it or as meaning "single crystal". It is noted that had applicants provided this definition earlier then claimed 13-17 would have been withdrawn as being non-elected by original presentation since the method of adjusting the characteristics of a single crystal compound is unrelated to the method of adjusting the properties of a polycrystalline compound since they are not usable together and have different effects and functions.